

ILLINOIS POLLUTION CONTROL BOARD  
July 21, 1982

MICHAEL SOBEL, et al., )  
 )  
 ) Petitioner, )  
 )  
 ) v. ) PCB 82-20  
 )  
 ) ILLINOIS ENVIRONMENTAL PROTECTION )  
 ) AGENCY, et al., )  
 )  
 ) Respondent. )

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the petition for variance filed February 26, 1982 as amended April 16, 1982 by Michael Sobel, Albert Lang, Dave Perritt, Phillip McJunkens, and Edward Glader (Sobel et al.). These individuals, who reside in the Village of Riverwoods, Lake County, seek variance from Rule 962 of Chapter 3: Water Pollution in order to receive a permit to construct and operate a proposed Duffy Lane Sanitary Sewer Extension. This extension would receive sewage currently discharged to each of petitioner's private failed or failing septic fields. As the proposed sewer extension would be tributary first to the sewage collection system owned and operated by the Village of Riverwoods (Village), and then to the interceptor system and Des Plaines River Sewage Treatment Plant owned and operated by the County of Lake (County), the Village and the County were joined as respondents in this action pursuant to the Board's Orders of March 4 and April 29, 1982. On June 10, 1982 the Illinois Environmental Protection Agency (Agency) filed its Recommendation in support of grant of variance on June 10, 1982. Hearing was waived and none has been held.

Sobel et al. reside at homes in the Village located at the following street addresses: 2800, 2840, 2860, and 2790 Duffy Lane, and 2000 Robinwood Lane. Of the five septic disposal systems involved, three systems, owned by petitioners Sobel, Perritt and Glader, have completely failed and discharge to the ground surface in the area during the entire year, another discharges during wet weather and the fifth has to pump every two weeks to avoid ground discharges. Each of these homeowners has received Notices of Violation issued by the Lake County Health Department, Sobel having been cited in December, 1981 and the others in October, 1981.

Sobel notes that he had completely replaced his septic system at a cost of \$3,000 in about February, 1981, but that this new system has failed. Perritt states that his seepage field was expanded some 6 years ago, but that it too has failed, and that he has spent \$180.00 in the last year to have his holding tank pumped out.

The Lang system discharges during wet seasons (approximately 4 months per year), which has resulted in the (unquantified) expense of having the tank pumped "several times per year". The McJunkens system consists of only a holding tank, which is emptied every 2 weeks at a yearly cost of \$2,000 in order to prevent discharges to the ground.

Sobel et al. estimate that the yearly discharge from these four discharging septic systems amounts to between 300,000 to 600,000 gallons of sewage, which "stands in depressional areas to the rear of the properties year round." (However, the petition also states that the effluent discharges to an open ditch tributary to a storm sewer system discharging into a lake which is part of the west fork of the north branch of the Chicago River.) Sobel et al. are concerned about the resulting threats to the health of their families and neighbors, and in addition wish to be relieved of the financial burdens, reduction in property values, and impending Health Department enforcement actions attributable to their sewage treatment problems.

Sobel et al. report that, according to the Lake County Soils survey, the soils in the area "have severe limitations for use as septic system filter fields due to the slow permeability and seasonal high water table. The Agency concurs, adding that this Soil Survey, prepared by the U.S. Department of Agriculture and the Illinois Agricultural Experiment Station, more specifically describes the soil as having an estimated percolation rate slower than 90 minutes/inch. The Agency notes that the soil's relative impermeability and the seasonal high water table make these soils "unsuitable for [sewage] absorption systems according to the Private Sewage Disposal Licensing Act and Code."

Sobel et al. accordingly began investigating connection to a sanitary sewer system. One option would be to connect to the Village of Lincolnshire sanitary sewer system of a lift station and 1300 feet of sewer or force main, at a cost of \$70,000, assuming such connection to another Village's system was politically feasible. The other option is construction of the Duffy Lane Sanitary Sewer Extension, involving 965 feet of 8" sewer, 4 foot diameter holes (sic), and 6" sewer connections to the individual residences, at a cost of \$17,742.50. The average daily flow to be transported by this sewer is estimated at 1250 gallons per day.

The Agency denied Sobel et al. a construction permit in February, 1982. In its denial letter, the Agency stated that "the Deerfield Road Interceptor and the Des Plaines River Lift Station

which transport sewage flow are operating at their design capacity ... Until additional capacity exists within the Deefield Road Interceptor and the Des Plaines River Lift Station no construction permits will be issued..."

The Agency recommends that variance be granted to the five petitioners. In its Recommendation, the Agency notes that the lift station and a few upstream manholes are subject to overflows. As a result, a Notice of Pending Restricted Status was issued to the Village on April 27, 1979. It would appear that Restricted Status was never actually imposed, and the Recommendation does not enlighten the Board as to why. Sobel et al. relate that sewer surcharging and discharges to the ground surface adjacent to the Des Plaines River have occurred intermittently since 1975, but that ground discharge occurs only after a concentrated rainfall, on or about 4 days annually for an average period of six hours.

The Lake County Health Department "highly recommends that variance be granted", while the Village has advised petitioners that it would "not make any objection to your request." Balancing the severe environmental and public health threats of the continued septic discharges against the lesser environmental threat of allowing additional flows to be added to an intermittently but infrequently discharging sewer, the Board finds that denial of variance would impose an arbitrary or unreasonable hardship to petitioners. Variance from Rule 962(a) of Chapter 3 is granted, subject to the conditions outlined in the attached Order.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

#### ORDER

1. Petitioners Michael Sobel, 2840 Duffy Lane, Albert Lang, 2860 Duffy Lane, Phillip McJunkens, 2800 Duffy Lane, Edward Glader, 2790 Duffy Lane and Dave Perritt, 2000 Robinwood Lane are hereby granted variance from Rule 962(a) of Chapter 3: Water Pollution to allow for issuance of a construction and operation permit for the Village of Riverwoods Duffy Lane Sanitary Sewer Extension, subject to the following conditions:

a) This extension shall service only the five lots at the above-listed street addresses.

b) Each petitioner shall discontinue use of his private septic system as soon after construction of the sanitary sewer extension as is practicable. In the interim, each petitioner shall take all reasonable steps to prevent ground discharges of sanitary sewage from his septic system.

2. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Division of Water Pollution Control, Compliance Assurance Section, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), \_\_\_\_\_, having read the Order of the Illinois Pollution Control Board in PCB 82-20, dated \_\_\_\_\_, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
By: Authorized Agent

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 21<sup>st</sup> day of July, 1982 by a vote of 5-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board